

2020
CUMULATIVE SUPPLEMENT
TO
MISSISSIPPI CODE

1972 ANNOTATED

Issued December 2020

**CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
ENACTED THROUGH THE 2020 REGULAR SESSION**

**PUBLISHED BY AUTHORITY OF
THE LEGISLATURE**

SUPPLEMENTING

Volume 2

Titles 1 to 11 (Chapters 1 to 5)

(As Revised 2019)

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By the Editorial Staff of the Publisher



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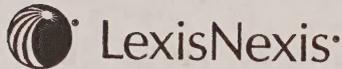
by

THE STATE OF MISSISSIPPI

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PUBLISHED BY LEXISNEXIS User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the Mississippi Code of 1972 Annotated, a User's Guide has been included in the main volume. This guide contains comments and information on the many features found within the Code intended to increase the usefulness of the Code to the user.

Annotations

Case annotations are included based on decisions of the State and federal courts in cases arising in Mississippi. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are used to track authorities for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are posted online on LexisNexis. As a consequence of this more current reading of cases, as they are posted online on LexisNexis, it is that the most recent cases annotated may not yet be reported in printed editions. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2d Series
Federal Reporter, 3rd Series
Federal Supplement, 3rd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 9th Series
American Law Reports, National 2d
Mississippi College Law Review
Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the State Comptroller have been examined for annotations.

Amendment Notes

Amendment notes will be the new legislative activity existing within.

Editor's Notes

Editor's notes, separate subject areas and legislative history of related legislation provide the reader with a picture of legislative acts that have not been published or suggest other sources of information.

PUBLISHER'S FOREWORD

Statutes

The 2020 Supplement to the Mississippi Code of 1972 Annotated reflects the statute law of Mississippi as amended by the Mississippi Legislature through the end of the 2020 Regular Legislative Session.

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- Federal Reporter, 3rd Series
- Federal Supplement, 3rd Series
- Federal Rules Decisions
- Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

- American Law Reports, 6th Series
- American Law Reports, Federal 2nd
- Mississippi College Law Review
- Mississippi Law Journal

Finally, published opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

Amendment Notes

Amendment notes detail how the new legislation affects existing sections.

Editor's Notes

Editor's notes summarize subject matter and legislative history of repealed sections, provide information as to portions of legislative acts that have not been codified, or explain other pertinent information.

PUBLISHER'S FOREWORD

Joint Legislative Committee Notes

Joint Legislative Committee notes explain codification decisions and corrections of Code errors made by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation.

Tables

The Statutory Tables volume adds tables showing disposition of legislative acts through the 2020 Regular Session.

Index

The comprehensive Index to the Mississippi Code of 1972 Annotated is replaced annually, and we welcome customer suggestions. The foreword to the Index explains our indexing principles, suggests guidelines for successful index research, and provides methods for contacting indexers.

Acknowledgements

The publisher wishes to acknowledge the cooperation and assistance rendered by the Mississippi Joint Legislative Committee on Compilation, Revision, and Publication of Legislation, as well as the offices of the Attorney General and Secretary of State, in the preparation of this supplement.

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December 2020

LexisNexis

SCHEDULE OF NEW SECTIONS

Added in this Supplement

TITLE 3. STATE SOVEREIGNTY, JURISDICTION AND HOLIDAYS

CHAPTER 3. State Boundaries, Holidays, and State Emblems

- Sec.
3-3-16.1. Plan for removal of state flag.

TITLE 7. EXECUTIVE DEPARTMENT

CHAPTER 3. Secretary of State

- 7-3-8. Replacement of older version of Secretary of State seal.

TITLE 9. COURTS

CHAPTER 1. Provisions Common to Courts

Electronic Filing and Storage of Court Documents

- 9-1-59. Pleadings and other papers to be served, filed, signed or verified by electronic means; conformity with Mississippi Electronic Court System.

CHAPTER 7. Circuit Courts

Judges, Districts, and Terms of Court

- 9-7-63. Twenty-third district; composition.
9-7-64. Twenty-third district; number and election of judges.

SCHEDULE OF NEW SECTIONS

TITLE 2 STATE SOVEREIGNTY JURISDICTION AND HOLIDAYS

CHAPTER 2 State Boundaries, Holidays and State Holidays

8-3-181

TITLE 4 EXECUTIVE DEPARTMENT

CHAPTER 2 Secretary of State

1-3-8

TITLE 4 COURTS

CHAPTER 1 Provisions Common to Courts

9-1-89

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**MISSISSIPPI CODE
1972
ANNOTATED**

VOLUME TWO

TITLE 1.

LAWS AND STATUTES

Chapter 1. Code of 1972.	1-1-1
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CHAPTER 1.

CODE OF 1972

In General.	1-1-1
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IN GENERAL

Sec. 1-1-11. Distribution of the Code of 1972.	
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§ 1-1-11. Distribution of the Code of 1972.

(1) Except as provided in subsection (2) of this section, the Joint Committee on Compilation, Revision and Publication of Legislation shall distribute or provide for the distribution of the sets of the compilation of the Mississippi Code of 1972 purchased by the state as follows:

Fifty-seven (57) sets to the Mississippi House of Representatives and forty (40) sets to the Mississippi Senate for the use of the Legislative Reference Bureau, Legislative Services Offices, staffs and committees thereof.

Ten (10) sets to the Governor's Office; nine (9) sets to the Secretary of State; and twenty (20) sets to the Auditor's Office.

One (1) set to each of the following: the Lieutenant Governor; each member of the Legislature; the Treasurer; each district attorney; each county attorney; each judge of the Court of Appeals and each judge of the Supreme, circuit, chancery, county, justice and municipal courts; each Mississippi Senator and Mississippi Representative in Congress; State Superintendent of Education; Director of the Department of Finance and Administration; the Commissioner of Agriculture and Commerce; each Mississippi Transportation Commissioner; the Insurance Commissioner; the Clerk of the Supreme Court; the State Board of Health; each circuit clerk; each chancery clerk in the state for the use of the chancery clerk and the board of supervisors; each sheriff in

the state for the use of his office and the county officers; and each county for the county library (and an additional set shall be given to each circuit clerk, chancery clerk, sheriff and county library in counties having two (2) judicial districts).

Six (6) sets to the Performance Evaluation and Expenditure Review (PEER) Committee; three (3) sets to the Director of the Legislative Budget Office; six (6) sets to the Department of Corrections; two (2) sets to the Department of Archives and History; two (2) sets to the State Soil and Water Conservation Commission; sixty-eight (68) sets to the Attorney General's office; six (6) sets to the Public Service Commission; four (4) sets to the Public Utilities Staff; thirty-five (35) sets to the Department of Revenue; one (1) set to the Board of Tax Appeals; two (2) sets to the State Personnel Board; six (6) sets to the State Law Library; one (1) set to the Library of Congress; ten (10) sets to the University of Mississippi Law School; one (1) set each to the Mississippi School for the Deaf and the Mississippi School for the Blind; one (1) set each to the University of Mississippi, Mississippi State University, Mississippi University for Women, University of Southern Mississippi, Delta State University, Alcorn State University, Jackson State University, Mississippi Valley State University, and the Board of Trustees of State Institutions of Higher Learning; and one (1) set to the Supreme Court judges' conference room. In furtherance of the State Library's reciprocal program of code exchange with libraries of the several states, the joint committee shall, at the direction and only upon the written request of the State Librarian, distribute or provide for the distribution of sets of the code to such libraries.

One (1) set to each state junior or community college; three (3) sets to the Department of Wildlife, Fisheries and Parks; two (2) sets to the Department of Environmental Quality; two (2) sets to the Department of Marine Resources; two (2) sets to the Mississippi Ethics Commission; six (6) sets to the Mississippi Workers' Compensation Commission; four (4) sets to the State Department of Rehabilitation Services; three (3) sets to the Department of Child Protection Services; and four (4) sets to the Department of Human Services. One (1) set to each of the following: State Textbook Procurement Commission; University Medical Center; State Library Commission; Department of Agriculture and Commerce; Forestry Commission; and seventeen (17) sets to the Department of Public Safety. Also, one (1) set to each of the following: Adjutant General, Mississippi Development Authority, Department of Banking and Consumer Finance, Bureau of Building, Grounds and Real Property Management, the State Educational Finance Commission, the Mississippi Board of Vocational and Technical Education, Division of Medicaid, State Board of Mental Health, and Department of Youth Services.

The joint committee is authorized to distribute or provide for the distribution of additional sets of the Mississippi Code, not to exceed three (3) sets, to the office of each district attorney for the use of his assistants.

The joint committee shall provide to the Mississippi House of Representatives and the Mississippi Senate the annual supplements to the Mississippi Code of 1972 for each set of the code maintained by the House and Senate.

An elected or appointed officeholder in the State of Mississippi, except for a member of the Legislature, shall deliver to his successor in office, or to the joint committee if there is no successor, the set of the Mississippi Code of 1972 provided the officeholder under this section.

Before the joint committee delivers or provides for delivery of a copy of the Mississippi Code of 1972 to an individual officeholder, the joint committee shall prepare and submit a written agreement to the officeholder. The agreement shall, among other provisions, state that the code is the property of the State of Mississippi, that it shall be transferred to the officeholder's successor in office, that the officeholder has an obligation to make such transfer and that the officeholder shall be responsible for the failure to deliver the code and for any damage or destruction to the code, normal wear and tear excepted. The joint committee shall execute the agreement and forward it to the officeholder for execution. The joint committee shall not deliver or provide for delivery of the code to the officeholder until the executed agreement is received by the committee. The joint committee may include in the agreement such other provisions as it may deem reasonable and necessary. In addition to damages or any other remedy for not transferring a set of the code to his successor, an officeholder who does not transfer his set of the code shall be guilty of a misdemeanor and shall, upon conviction, pay a fine of One Thousand Dollars (\$1,000.00). Upon request of the joint committee, the Attorney General shall assist the joint committee in taking such actions as necessary to require an officeholder to transfer the set of code provided under this section to his successor, or to the joint committee if there is no successor, and to recover reimbursement or damages from any officeholder for the loss of or damage or destruction to any volumes of the set of the code provided under this section, other than normal wear and tear.

Replacement of missing, damaged or destroyed sets or volumes of the code provided by this chapter may be obtained from the code publisher through the joint committee at the established state cost, the cost to be borne by the recipient.

No more than one (1) set of the Mississippi Code of 1972 shall be furnished to any one (1) individual, regardless of the office or offices he may hold.

(2) The sets of actual bound volumes of the Mississippi Code of 1972 referenced in subsection (1) shall be provided to each elected state official, elected state district official and member of the Legislature upon written request by the official or member of the Legislature to the Joint Committee on Compilation, Revision and Publication of Legislation.

HISTORY: Codes, 1942, § 7; Laws, 1942, ch. 318; Laws, 1944, ch. 314; Laws, 1966, ch. 395, § 1; Laws, 1973, ch. 425, § 1; Laws, 1974, ch. 377; Laws, 1978, ch. 458, § 4; Laws, 1981, ch. 536, § 1; Laws, 1988, ch. 486, § 1; Laws, 1988, ch. 518, § 14; Laws, 1990, ch. 402, § 1; Laws, 1991, ch. 530, § 6; Laws, 1992, ch. 543, § 11; Laws, 1993, ch. 430, § 8; Laws, 1993, ch. 518, § 8; Laws, 1997, ch. 385, § 1; Laws, 1998, ch. 325, § 1; Laws, 1998, ch. 546, § 3; Laws, 1999, ch. 310, § 1; Laws, 2000, ch. 511, § 1; Laws, 2003, ch. 551, § 1; Laws, 2009, ch. 492, § 7; Laws, 2010, ch. 376, § 1, eff from and after July 1, 2010; Laws, 2020, ch. 390, § 4, eff from and after July 1, 2020.

Amendment Notes — The 2020 amendment, (1), in the third undesignated paragraph, deleted “family” following “chancery, county,” deleted “six (6) sets to the Performance Evaluation and Expenditure Review (PEER) Committee; three (3) sets to the Director of the Legislative Budget Office” following “Department of Finance and Administration,” deleted “six (6) sets to the Department of Corrections” following “Mississippi Transportation Commissioner”; in the fourth undesignated paragraph, added “Six (6) sets to the Performance Evaluation and Expenditure Review (PEER)...Department of Corrections”; in the fifth undesignated paragraph, inserted “three (3) sets to the Department of Child Protection Services” and substituted “and four (4) sets” for “and seven (7) sets”; deleted the former eighth paragraph, which read: “The set of the Mississippi Code of 1972 to be provided to each member of the Legislature shall be provided unless specifically waived by such legislator in writing”; and rewrote (2), which had allowed the joint committee the discretion to determine whether electronic access to the code was a sufficient substitute and if so to omit furnishing sets as otherwise required in (1).

CHAPTER 3.

CONSTRUCTION OF STATUTES

§ 1-3-39. Person.

JUDICIAL DECISIONS

1. In general.

Based on the language of Miss. Code Ann. § 1-3-39, and the statements made by the county, the county was a “person aggrieved” for the purposes of Miss. Code Ann. § 37-7-115 because the county stated multiple times during proceedings that

government property was at issue, and the property it was addressing in the action was the property of residents who would be assessed ad valorem taxes. *Pearl River Cty. Bd. of Supervisors v. Miss. State Bd. of Educ.*, 289 So. 3d 301, 2020 Miss. LEXIS 30 (Miss. 2020).

TITLE 3.

STATE SOVEREIGNTY, JURISDICTION AND HOLIDAYS

Chapter 3. State Boundaries, Holidays, and State Emblems.	3-3-1
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CHAPTER 3.

STATE BOUNDARIES, HOLIDAYS, AND STATE EMBLEMS

Sec. 3-3-16. Repealed.

§ 3-3-16. Repealed.

Repealed by Laws, 2020, ch. 427, § 5, eff from and after passage (approved June 30, 2020).

§ 3-3-16. [Laws, 2001, ch. 301, § 2, eff from and after February 7, 2001 (the date the United States Attorney General interposed no objection under Section 5 of the Voting Rights Act of 1965, to the addition of this section).]

Editor's Notes — Former § 3-3-16 provided the design for the official flag of the State of Mississippi. For plan for removal of the official state flag, see § 3-3-16.1.

Laws of 2020, ch. 427, §§ 1 and 2, effective June 30, 2020, provide:

"SECTION 1. (1) There is established the Commission to Redesign the Mississippi State Flag (commission) for the sole purpose of developing, designing and reporting to the Governor and the Legislature its recommendation for the new design for the official Mississippi State Flag not later than September 14, 2020. The new design for the Mississippi State Flag recommended by the commission shall be placed on the ballot in a statewide special election as provided for in Section 2 of this act. The new design for the Mississippi State Flag recommended by the commission shall not include the design of the Confederate Battle Flag, but shall include the words "In God We Trust." The commission is charged with a sensitive and responsible task that it shall conduct in an objective manner. The new design for the Mississippi State Flag shall honor the past while embracing the promise of the future.

"(2) The Commission to Redesign the Mississippi State Flag shall consist of nine (9) members, to be appointed as follows:

"(a) Three (3) members appointed by the Speaker of the House;

"(b) Three (3) members appointed by the Lieutenant Governor;

"(c) Three (3) members appointed by the Governor, to include:

"(i) A representative from the Mississippi Economic Council;

"(ii) A representative from the Mississippi Arts Commission;

"(iii) A representative from the Board of Trustees of the Mississippi Department of Archives and History.

"All appointments to the commission shall be made not later than July 15, 2020. The chair of the commission shall be chosen by majority vote of the members of the commission. The commission shall meet as soon as practicable after the appointments have been made upon the joint call of the Speaker and the Lieutenant Governor, and shall organize for business. A majority vote of the members of the commission shall be

required for the adoption of any reports and recommendations. The Mississippi Department of Archives and History shall provide meeting space and clerical support for the operation of the commission.

“(3) The commission shall have the following functions and duties:

“(a) To hold regular public meetings when and where it sees fit;

“(b) To receive written public comments in a manner and under the terms and conditions as it sees fit;

“(c) To collect, examine and consider all information that it determines may be helpful in making a recommendation for the new design for the Mississippi State Flag;

“(d) To consult with experts, representatives of organizations and associations, and others, as it sees fit, whose knowledge or expertise may assist the commission in making its recommendation;

“(e) To make any inquiries and conduct any business that may assist the commission in developing the new design for the Mississippi State Flag; however, the new design for the Mississippi State Flag recommended by the commission shall not include the design of the Confederate Battle Flag, but shall include the words “In God We Trust”;

“(f) Keep minutes of its meetings, and make those minutes available to the public; and

“(g) To make a written recommendation for the new design for the official Mississippi State Flag, which shall be presented to the Governor and the Legislature not later than September 14, 2020.

“(4) Members of the commission shall receive no compensation for their service on the commission, but may receive reimbursement for mileage and actual expenses as provided in Section 25-3-41, to the extent that funds are available for that purpose.

“SECTION 2. (1) There shall be a statewide special election for the purpose of determining whether the new design for the Mississippi State Flag recommended by the commission shall be the design for the official Mississippi State Flag. The special election shall be held on Tuesday, November 3, 2020, and shall be conducted in the same manner as general elections are held. The question put before the voters at the special election shall read on the ballots as follows:

“PLEASE VOTE ‘YES’ OR ‘NO’ ON WHETHER THE FOLLOWING DESIGN SHALL BE THE OFFICIAL MISSISSIPPI STATE FLAG

“‘YES’:

‘NO’:

“The qualified electors may indicate their preference on the line following the answer that they prefer. If a majority of the qualified electors voting on the question in the special election vote “Yes,” then the Legislature shall enact into law the new design as the official Mississippi State Flag during the next regular session of the Legislature after the election.

“(2) If a majority of the qualified electors voting on the question in the special election vote “No,” then the commission shall reconvene to perform the functions described in Section 1 of this act. The commission shall make its recommendation for another new design for the official Mississippi State Flag, which shall be presented to the Governor and the Legislature during the next regular session of the Legislature after the election. The new design for the Mississippi State Flag recommended by the commission shall be placed on the ballot in a statewide special election for the purpose of allowing the qualified electors to determine whether the new design recommended by the commission shall be the design for the official Mississippi State Flag. The special election shall be held on the first Tuesday after the first Monday in November of the year in which the commission presents its recommendation to the Legislature, and shall be conducted in the same manner as general elections are held. The question on the ballot shall be the same question as provided in subsection (1) of this section, and the results of the election shall determine which of the procedures described in this section shall be followed in the future in determining the new design for the official Mississippi State Flag.

“(3) The statewide special election for voting on the new design for the official

Mississippi State Flag shall be administered by means of ballots containing a uniform representation of the new design for the Mississippi State Flag recommended by the commission, which shall be provided by the Secretary of State to the election commissioners of each county. The Secretary of State shall determine whether, in each county, it would be more efficient to administer the election by paper ballots, voting machines, electronic voting systems, optical mark reading equipment or other mechanized equipment. The method used in each county shall be as uniform as practicable when compared to any other county in which the same method is used. In any event, the Secretary of State shall include a color picture or drawing of the new design for the Mississippi State Flag on all ballots provided for in this section. The Secretary of State is authorized to enter into any necessary contracts for providing the required color picture or drawing of the new design for the Mississippi State Flag on all ballots in all counties of this state. The costs incurred in providing the ballots that are required to include a color picture or drawing of the new design for the Mississippi State Flag shall be borne by the State of Mississippi, and the Legislature shall appropriate the funds necessary for this purpose. All other costs associated with the holding of the statewide special election shall be borne by each individual county.

“(4) The county election commissioners shall transmit to the Secretary of State, in the same manner as the vote for state officers is transmitted, a statement of the total number of votes cast in the statewide special election for voting on the new design for the official Mississippi State Flag. The Secretary of State shall tabulate those returns and certify the results to the Governor and to each house of the Legislature.”

On September 2, 2020, the commission selected a final design for the new official Mississippi State Flag, and on November 3, 2020, Mississippi voters adopted the new design.

§ 3-3-16.1. Plan for removal of state flag.

On June 30, 2020, the Department of Archives and History shall immediately develop a plan for the prompt, dignified and respectful removal of the former official Mississippi State Flag described in Section 3-3-16, Mississippi Code of 1972, and the removal of the flag shall take place not later than fifteen (15) days from June 30, 2020.

HISTORY: Laws, 2020, ch. 427, § 6, effective from and after passage (approved June 30, 2020).

TITLE 5.
LEGISLATIVE DEPARTMENT
CHAPTER 1.
LEGISLATURE

§ 5-1-41. Remuneration of legislators.

ATTORNEY GENERAL OPINIONS

All sums paid to legislators under this section, with the exception of mileage, are considered salary for the purposes of Miss. Code Ann. § 25-11-127(4)(a). Higgins, Jan. 24, 2019, A.G. Op. 19-0001.

TITLE 7.
EXECUTIVE DEPARTMENT

Chapter 3. Secretary of State. 7-3-1

CHAPTER 1.
GOVERNOR

**ADMINISTRATION OF THE WORKFORCE INVESTMENT
ACT PROGRAMS IN MISSISSIPPI**

§ 7-1-355. Administration of Workforce Investment Act programs; annual report on Workforce Investment Act activities [Repealed effective July 1, 2023; For contingent repeal of this section, see Editor’s note].

Editor’s Notes — Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, as amended by Laws of 2012, ch. 515, § 58, as amended by Laws of 2019, ch. 451, § 58, and as amended by Laws of 2020, ch. 476, § 7, provides:
“SECTION 60. Sections 8 through 59 of this act shall stand repealed on July 1, 2023.”

CHAPTER 3.
SECRETARY OF STATE

General Provisions. 7-3-1

GENERAL PROVISIONS

Sec.
7-3-7. Seal.

§ 7-3-7. Seal.

The Secretary of State shall have a seal which shall be in the form of a circle, with the image of an eagle in the center and around the margin the words “Secretary of State-State of Mississippi” and under the image of the eagle the words: “In God We Trust.”

The Secretary of State shall affix the seal prescribed to every document where the same is required by law, and to every certificate and other official paper executed by him where necessary or proper. All documents authenticated with the seal and signed by the Secretary of State shall be received as evidence in all courts, investigations, and proceedings authorized by law, and may be recorded in the same manner and with like effect as a deed. All copies of papers in the Office of the Secretary of State, certified by him and

authenticated by the seal, shall be accepted in all matters equally in like manner as the original.

HISTORY: Codes, 1930, § 6935; 1942, § 4195; Laws, 1928, ch. 332; Laws, 2020, ch. 381, § 1, eff from and after passage (approved June 25, 2020).

Amendment Notes. The 2020 amendment, effective June 25, 2020, substituted “the words: ‘In God We Trust’ ” for “the word: ‘Official’ ” in the first paragraph; and made minor stylistic changes in the second paragraph.

§ 7-3-8. Replacement of older version of Secretary of State seal.

The Office of the Secretary of State shall continue to use stationery and other supplies having the seal thereon as it existed before July 1, 2020, until such stationery and other supplies are depleted. The seal as it existed before July 1, 2020, affixed on any public buildings, property or any other item shall remain thereon until the replacement of the seal due to normal wear or until replacement with any nonpublic funds.

HISTORY: Laws, 2020, ch. 381, § 2, eff from and after passage (approved June 25, 2020).

CHAPTER 5.

ATTORNEY GENERAL

IN GENERAL

§ 7-5-1. Qualifications, election, and duties.

JUDICIAL DECISIONS

1. In general.

Attorney General had both the authority, vested in common law and statute, as well as the county district attorney’s consent, to prosecute defendant because he prosecuted defendant with at least the implicit blessing of the county district attorney, who declined to prosecute defen-

dant based upon the specialized nature of the crimes alleged; the county district attorney indicated his “agreement” that the Attorney General should prosecute the action on behalf of the Mississippi Gaming Commission. *Moore v. State*, — So. 3d —, 2020 Miss. App. LEXIS 391 (Miss. Ct. App. June 23, 2020).

CHAPTER 7.

STATE FISCAL OFFICER; DEPARTMENT OF AUDIT

ARTICLE 3.

DEPARTMENT OF AUDIT.

§ 7-7-211. Powers and duties of department.

OPINIONS OF THE ATTORNEY GENERAL

Planning and Development Districts are either public entities or instrumentalities of political subdivisions of the state and, as such, are subject to audit by the State Auditor. McLeod, Nov. 26, 2003, A.G. Op. 03-0573.

§ 7-7-218. Preparation of report by State Auditor where public officer or employee fails or refuses to make report; correction and publication of finding of substantial noncompliance where public officer or employee fails to correct finding; payment of expenses.

OPINIONS OF THE ATTORNEY GENERAL

If an officer or employee of the state or subdivision fails or refuses to make any report as set forth in Section 7-7-218, and that failure or refusal constitutes a breach of his or her faithful performance of duty, then recovery may be sought from the applicable bond. Bryant, May 5, 2000, A.G. Op. #2000-0185.

CHAPTER 11.

SECRETARY OF STATE; LAND RECORDS

§ 7-11-2. Abolition of office of State Land Commissioner; transference of duties and responsibilities to Secretary of State.

JUDICIAL DECISIONS

1. In general.

School board's duty as trustee to assure adequate consideration is received based on current fair market value of the Sixteenth Section Land cannot be waived, even by mutual agreement in a contract; Sixteenth Section leases come with certain constitutional and statutory require-

ments, one being that rent adjustment at least once every ten years is a mutual, mandatory obligation and not a mere right to be exercised or waived. Oak Grove Marketplace, LLC v. Lamar Cty. Sch. Dist., 287 So. 3d 924, 2020 Miss. LEXIS 6 (Miss. 2020).

TITLE 9.
COURTS

Chapter 5.	Chancery Courts.	9-5-1
Chapter 7.	Circuit Courts.	9-7-1

CHAPTER 1.
PROVISIONS COMMON TO COURTS

GENERAL PROVISIONS

§ 9-1-41. Reasonableness of attorneys' fees; evidence.

JUDICIAL DECISIONS

2. Application.

Chancellor found the mother in willful contempt of the child custody and visitation order, and thus the chancellor properly awarded \$ 1,000 in attorney fees to the father; although the father sought \$ 2,500, he provided no evidence to support his assertion that the \$ 1,000 award was insufficient or unreasonable. *Dixon v. Olmstead*, 296 So. 3d 227, 2020 Miss. App. LEXIS 333 (Miss. Ct. App. 2020).

There was substantial evidence to support the chancellor's award to the father and finding that \$8,000 was a reasonable amount for the contempt petitions, including that the mother continually denied the father visitation with the child. *Riley v. Heisinger*, — So. 3d —, 2020 Miss. App. LEXIS 486 (Miss. Ct. App. Aug. 25, 2020).

§ 9-1-49. Report concerning certain persons' access to firearms.

*(1)

The clerk of the court shall prepare and forward to the Department of Public Safety the information described by subsection (2) of this section not later than the thirtieth day after the date the court:

*(a)

Judicially determines that a person is a person with mental illness or person with an intellectual disability under Title 41, Chapter 21, Mississippi Code of 1972, whether ordered for inpatient treatment, outpatient treatment, day treatment, night treatment or home health services treatment;

*(b)

Acquits a person in a criminal case by reason of insanity or on a ground of intellectual disability, without regard to whether the person is ordered by a court to receive inpatient treatment or residential care under Section 99-13-7;

*(c)

Appoints a guardian or conservator under Title 93, Chapter 13, based on

the determination that the person is incapable of managing his own estate due to mental weakness;

*(d)

Determines that a person is incompetent to stand trial pursuant to Rule 9.06 of the Mississippi Rules of Circuit and County Court Practice;

*(e)

Finds under Section 93-13-151 that a person has been restored to reason; or

*(f)

Enters an order of relief from a firearms disability under Section 97-37-5(4).

*(2)

The clerk of the court shall prepare and forward the following information:

*(a)

The complete name, race, and sex of the person;

*(b)

Any known identifying number of the person, including social security number, driver's license number, or state identification card number;

*(c)

The person's date of birth; and

*(d)

The federal prohibited-person information that is the basis of the report required by this section.

*(3)

If practicable, the clerk of the court shall forward to the Department of Public Safety the information described by subsection (2) of this section in an electronic format prescribed by the department.

*(4)

If an order previously reported to the department under subsection (1) of this section is reversed by order of any court, the clerk shall notify the department of the reversal not later than thirty (30) days after the clerk receives the court order or the mandate from the appellate court.

*(5)

The duty of a clerk to prepare and forward information under this section is not affected by:

*(a)

Any subsequent appeal of the court order;

*(b)

Any subsequent modification of the court order; or

*(c)

The expiration of the court order. from and after July 1, 2013.

HISTORY: Laws, 2013, ch. 384, § 2, eff from and after July 1, 2013.

Editor's Notes — This section is set out above to correct a typographical error in subsection (1)(e), in the version of the section that is effective from and after January 1, 2020, as it appeared in the 2019 Replacement Volume 2.

§ 9-1-59. Pleadings and other papers to be served, filed, signed or verified by electronic means; conformity with Mississippi Electronic Court System.

Each circuit, chancery and county court in this state shall require all pleadings and other papers to be served, filed, signed or verified by electronic means in conformity with the Mississippi Electronic Court System procedures by July 1, 2021.

HISTORY: Laws of 2020, ch. 426, § 1, effective July 1, 2020.

**CHAPTER 5.
CHANCERY COURTS**

Chancellors, Districts and Terms. 9-5-1

CHANCELLORS, DISTRICTS AND TERMS

Sec.
9-5-13. Third district; number of chancellors; number and election of chancellors of subdistricts.

§ 9-5-13. Third district; number of chancellors; number and election of chancellors of subdistricts.

[Until January 1, 2027, this section shall read as follows:]

(1) There shall be three (3) chancellors for the Third Chancery Court District.

(2)(a) The chancellor of Subdistrict 3-1 shall be elected from DeSoto County. The two (2) chancellors of Subdistrict 3-2 shall be elected from Grenada County, Montgomery County, Panola County, Tate County and Yalobusha County.

(b) For purposes of appointment and election, the three (3) chancellorships shall be separate and distinct. The chancellorship in Subdistrict 3-1 shall be denominated only as "Place One," and the chancellorships in Subdistrict 3-2 shall be denominated only as "Place Two" and "Place Three."

[From and after January 1, 2027, this section shall read as follows:]

(1) There shall be four (4) chancellors for the Third Chancery Court District.

(2)(a) The two (2) chancellors of Subdistrict 3-1 shall be elected from DeSoto County. The two (2) chancellors of Subdistrict 3-2 shall be elected from Grenada County, Montgomery County, Panola County, Tate County and Yalobusha County.

(b) For purposes of appointment and election, the four (4) chancellorships shall be separate and distinct and denominated as "Place One," "Place

Two,” “Place Three” and “Place Four”. The chancellorships in Subdistrict 3-1 shall be denominated only as “Place One” and “Place Four” and the chancellorships in Subdistrict 3-2 shall be denominated only as “Place Two” and “Place Three.”

HISTORY: Codes, 1942, § 1218.1; Laws, 1970, ch. 325, §§ 1-4, eff from; Laws, 1994, ch. 564, § 7; Laws, 2005, ch. 501, § 2, eff Jan. 1, 2007; Laws, 2020, ch. 474, § 7, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the bracketed effective date language preceding the second version of the section by inserting the word "and" between "From" and "after." The Joint Committee ratified the correction at its October 19, 2020, meeting.

Editor’s Notes — Laws of 2020, ch. 474, §§ 8 through 9 provide:

“SECTION 8. (1) The new circuit judge position created for the Twenty-third Circuit Court District by virtue of this act shall be filled during the November 2022 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“(2)(a) The office of district attorney for the Twenty-third Circuit Court District created by virtue of this act shall be filled by the person who holds the office of district attorney for the Seventeenth Circuit Court District on December 31, 2022. Such person shall serve as the district attorney for the Twenty-third Circuit Court District until a successor for such office is elected in the November 2023 general election. Notwithstanding any other provision of law to the contrary regarding residency of candidates for the office of district attorney, the person serving as the district attorney for the Seventeenth Circuit Court District as of December 31, 2022, may qualify as a candidate to run for the office of district attorney for the Twenty-third Circuit Court District in the November 2023 general election, if such person is otherwise qualified as a candidate as provided by law.

“(b) The vacancy created by virtue of paragraph (a) of this subsection (2) for the office of district attorney for the Seventeenth Circuit Court District shall be filled by special election on the date set for judicial elections in November 2022, with such person taking office as district attorney for the Seventeenth Circuit Court District on January 1, 2023, for a term to expire as is provided for district attorneys generally. The date and deadline to qualify as a candidate in the special election for such office shall be the same as for judicial candidates for the November 2022 judicial elections.

“(3) The new chancellorship position created for the Third Chancery Court District by virtue of this act shall be filled during the November 2026 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“SECTION 9. Monies appropriated for the purposes of funding drug courts in the Seventeenth and the Twenty-third Circuit Court Districts as described in this act shall be apportioned equally.

“SECTION 10. Sections 3 and 4 of this act shall take effect and be in force from and after January 1, 2023, and the remainder of this act shall take effect and be in force from and after July 1, 2020.”

Amendment Notes — The 2020 amendment provided for two versions of the section, and in the version effective from and after January 1, 2027, in (1), substituted “four (4)” for “three (3)”; in (2)(a), inserted “two (2)” and made a related change; and in (2)(b), in the first sentence, substituted “four (4)” for “three (3),” added “and denominated as ‘Place One,’ ‘Place Two,’ ‘Place Three’ and ‘Place Four,’” and inserted “and ‘Place Four’” and made a related change.

CHAPTER 7.
CIRCUIT COURTS

Judges, Districts, and Terms of Court. 9-7-1

JUDGES, DISTRICTS, AND TERMS OF COURT

Sec.
9-7-45. Seventeenth district; composition.
9-7-46. Seventeenth district; number and election of judges.
9-7-63. Twenty-third district; composition [Effective January 1, 2023].
9-7-64. Twenty-third district; number and election of judges [Effective January 1, 2023].

§ 9-7-45. Seventeenth district; composition.

[Until January 1, 2023, this section shall read as follows:]

The Seventeenth Circuit Court District shall be divided into two (2) subdistricts as follows:

- (a) Subdistrict 17-1 shall be composed of DeSoto County; and
(b) Subdistrict 17-2 shall be composed of Panola County, Tallahatchie County, Tate County and Yalobusha County.

[From and after January 1, 2023, this section shall read as follows:]

The Seventeenth Circuit Court District shall be composed of the following counties:

- (a) Panola County;
(b) Tallahatchie County;
(c) Tate County; and
(d) Yalobusha County.

HISTORY: Codes, 1930, § 473; 1942, § 1411; Laws, 1932, ch. 147; Laws, 1968, ch. 329, § 1; Laws, 1970, ch. 331, § 1; Laws, 1983, ch. 499, § 15; Laws, 1985, ch. 502, § 39; Laws, 1994, ch. 564, § 66; Laws, 2015, ch. 476, § 54, eff from and after passage (approved Apr. 22, 2015); Laws, 2020, ch. 474, § 5, eff from and after July 1, 2020.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the bracketed effective date language preceding the second version of the section by inserting the word "and" between "From" and "after." The Joint Committee ratified the correction at its October 19, 2020, meeting.

Editor's Notes — Laws of 2020, ch. 474, §§ 8 through 10, provide:

"SECTION 8. (1) The new circuit judge position created the Twenty-third Circuit Court District by virtue of this act shall be filled during the November 2022 judicial election in accordance with Sections 23-15-974 through 23-15-985.

"(2) (a) The office of district attorney for the Twenty-third Circuit Court District created by virtue of this act shall be filled by the person who holds the office of district attorney for the Seventeenth Circuit Court District on December 31, 2022. Such person shall serve as the district attorney for the Twenty-third Circuit Court District until a

successor for such office is elected in the November 2023 general election. Notwithstanding any other provision of law to the contrary regarding residency of candidates for the office of district attorney, the person serving as the district attorney for the Seventeenth Circuit Court District as of December 31, 2022, may qualify as a candidate to run for the office of district attorney for the Twenty-third Circuit Court District in the November 2023 general election, if such person is otherwise qualified as a candidate as provided by law.

“(b) The vacancy created by virtue of paragraph (a) of this subsection (2) for the office of district attorney for the Seventeenth Circuit Court District shall be filled by special election on the date set for judicial elections in November 2022, with such person taking office as district attorney for the Seventeenth Circuit Court District on January 1, 2023, for a term to expire as is provided for district attorneys generally. The date and deadline to qualify as a candidate in the special election for such office shall be the same as for judicial candidates for the November 2022 judicial elections.

“(3) The new chancellorship position created for the Third Chancery Court District by virtue of this act shall be filled during the November 2026 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“SECTION 9. Monies appropriated for the purposes of funding drug courts in the Seventeenth and the Twenty-third Circuit Court Districts as described in this act shall be apportioned equally.

“SECTION 10. Sections 3 and 4 of this act shall take effect and be in force from and after January 1, 2023, and the remainder of this act shall take effect and be in force from and after July 1, 2020.”

Amendment Notes — The 2020 amendment provided for two versions of the section, and in the version effective from and after January 1, 2023, rewrote the section to delete the subdistricts and amend the composition of the district to delete DeSoto County. For DeSoto County, see now §§ 9-7-63 and 9-7-64.

§ 9-7-46. Seventeenth district; number and election of judges.

[Until January 1, 2023, this section shall read as follows:]

(1) There shall be four (4) circuit judges for the Seventeenth Circuit Court District.

(2) For the purpose of appointment and election, the four (4) judgeships shall be separate and distinct, and one (1) judge shall be elected from Subdistrict 17-1, two (2) judges shall be elected from Subdistrict 17-2, and one (1) judge shall be elected from every county in the district. The two (2) judgeships in Subdistrict 17-2 shall be denominated as “Place One” and “Place Two,” the judgeship in Subdistrict 17-1 shall be denominated as “Place Three,” and the at-large judgeship shall be denominated as “Place Four.”

[From and after January 1, 2023, this section shall read as follows:]

(1) There shall be two (2) circuit judges for the Seventeenth Circuit Court District.

(2) For the purpose of appointment and election, the two (2) judgeships shall be separate and distinct, and be denominated as “Place One” and “Place Two.”

HISTORY: Laws, 1982, ch. 413; Laws, 1985, ch. 502, § 55; Laws, 1994, ch 564, § 67; Laws, 2005, ch. 501, § 16, eff Jan. 1, 2007; Laws, 2020, ch. 474, § 6, eff from and after July 1, 2020.

Editor's Notes — Laws of 2020, ch. 474, §§ 8 through 10, provide:

“SECTION 8. (1) The new circuit judge position created the Twenty-third Circuit Court District by virtue of this act shall be filled during the November 2022 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“(2)(a) The office of district attorney for the Twenty-third Circuit Court District created by virtue of this act shall be filled by the person who holds the office of district attorney for the Seventeenth Circuit Court District on December 31, 2022. Such person shall serve as the district attorney for the Twenty-third Circuit Court District until a successor for such office is elected in the November 2023 general election. Notwithstanding any other provision of law to the contrary regarding residency of candidates for the office of district attorney, the person serving as the district attorney for the Seventeenth Circuit Court District as of December 31, 2022, may qualify as a candidate to run for the office of district attorney for the Twenty-third Circuit Court District in the November 2023 general election, if such person is otherwise qualified as a candidate as provided by law.

“(b) The vacancy created by virtue of paragraph (a) of this subsection (2) for the office of district attorney for the Seventeenth Circuit Court District shall be filled by special election on the date set for judicial elections in November 2022, with such person taking office as district attorney for the Seventeenth Circuit Court District on January 1, 2023, for a term to expire as is provided for district attorneys generally. The date and deadline to qualify as a candidate in the special election for such office shall be the same as for judicial candidates for the November 2022 judicial elections.

“(3) The new chancellorship position created for the Third Chancery Court District by virtue of this act shall be filled during the November 2026 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“SECTION 9. Monies appropriated for the purposes of funding drug courts in the Seventeenth and the Twenty-third Circuit Court Districts as described in this act shall be apportioned equally.

“SECTION 10. Sections 3 and 4 of this act shall take effect and be in force from and after January 1, 2023, and the remainder of this act shall take effect and be in force from and after July 1, 2020.”

Amendment Notes — The 2020 amendment provided for two versions of the section, and in the version effective from and after January 1, 2023, rewrote the section to reduce the number of judges from four to two and delete the subdistricts.

§ 9-7-63. Twenty-third district; composition [Effective January 1, 2023].

The Twenty-third Circuit Court District shall be DeSoto County.

HISTORY: Laws, 2020, ch. 474, § 3, eff from and after January 1, 2023.

Editor's Notes — Laws of 2020, ch. 474, §§ 8 through 10, provide:

“SECTION 8. (1) The new circuit judge position created the Twenty-third Circuit Court District by virtue of this act shall be filled during the November 2022 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“(2)(a) The office of district attorney for the Twenty-third Circuit Court District created by virtue of this act shall be filled by the person who holds the office of district attorney for the Seventeenth Circuit Court District on December 31, 2022. Such person shall serve as the district attorney for the Twenty-third Circuit Court District until a successor for such office is elected in the November 2023 general election. Notwithstanding any other provision of law to the contrary regarding residency of candidates for the office of district attorney, the person serving as the district attorney for the Seventeenth Circuit Court District as of December 31, 2022, may qualify as a candidate

to run for the office of district attorney for the Twenty-third Circuit Court District in the November 2023 general election, if such person is otherwise qualified as a candidate as provided by law.

“(b) The vacancy created by virtue of paragraph (a) of this subsection (2) for the office of district attorney for the Seventeenth Circuit Court District shall be filled by special election on the date set for judicial elections in November 2022, with such person taking office as district attorney for the Seventeenth Circuit Court District on January 1, 2023, for a term to expire as is provided for district attorneys generally. The date and deadline to qualify as a candidate in the special election for such office shall be the same as for judicial candidates for the November 2022 judicial elections.

“(3) The new chancellorship position created for the Third Chancery Court District by virtue of this act shall be filled during the November 2026 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“SECTION 9. Monies appropriated for the purposes of funding drug courts in the Seventeenth and the Twenty-third Circuit Court Districts as described in this act shall be apportioned equally.

“SECTION 10. Sections 3 and 4 of this act shall take effect and be in force from and after January 1, 2023, and the remainder of this act shall take effect and be in force from and after July 1, 2020.”

§ 9-7-64. Twenty-third district; number and election of judges [Effective January 1, 2023].

(1) There shall be two (2) circuit judges for the Twenty-third Circuit Court District.

(2) For the purposes of appointment and election, the two (2) judgeships shall be separate and distinct and denominated as “Place One” and “Place Two.”

HISTORY: Laws, 2020, ch. 474, § 4, eff from and after January 1, 2023.

Editor’s Notes — Laws of 2020, ch. 474, §§ 8 through 10, provide:

“SECTION 8. (1) The new circuit judge position created the Twenty-third Circuit Court District by virtue of this act shall be filled during the November 2022 judicial election in accordance with Sections 23-15-974 through 23-15-985.

“(2)(a) The office of district attorney for the Twenty-third Circuit Court District created by virtue of this act shall be filled by the person who holds the office of district attorney for the Seventeenth Circuit Court District on December 31, 2022. Such person shall serve as the district attorney for the Twenty-third Circuit Court District until a successor for such office is elected in the November 2023 general election. Notwithstanding any other provision of law to the contrary regarding residency of candidates for the office of district attorney, the person serving as the district attorney for the Seventeenth Circuit Court District as of December 31, 2022, may qualify as a candidate to run for the office of district attorney for the Twenty-third Circuit Court District in the November 2023 general election, if such person is otherwise qualified as a candidate as provided by law.

“(b) The vacancy created by virtue of paragraph (a) of this subsection (2) for the office of district attorney for the Seventeenth Circuit Court District shall be filled by special election on the date set for judicial elections in November 2022, with such person taking office as district attorney for the Seventeenth Circuit Court District on January 1, 2023, for a term to expire as is provided for district attorneys generally. The date and deadline to qualify as a candidate in the special election for such office shall be the same as for judicial candidates for the November 2022 judicial elections.

“(3) The new chancellorship position created for the Third Chancery Court District by virtue of this act shall be filled during the November 2026 judicial election in

accordance with Sections 23-15-974 through 23-15-985.

“SECTION 9. Monies appropriated for the purposes of funding drug courts in the Seventeenth and the Twenty-third Circuit Court Districts as described in this act shall be apportioned equally.

“SECTION 10. Sections 3 and 4 of this act shall take effect and be in force from and after January 1, 2023, and the remainder of this act shall take effect and be in force from and after July 1, 2020.”

CHAPTER 9. COUNTY COURTS

§ 9-9-21. Jurisdiction.

JUDICIAL DECISIONS

ANALYSIS

(Miss. Ct. App. Aug. 6, 2019), cert. denied, — So. 3d —, 2020 Miss. LEXIS 137 (Miss. 2020).

- 1. In general.
- 5. Exclusive jurisdiction.

5. Exclusive jurisdiction.

1. In general.
Circuit court properly denied defendant's motion for post-conviction relief because the county court judge clearly had authority and jurisdiction to accept a plea and impose a sentence in a circuit court case, no statute specifically required a written order of assignment, and, even assuming that a written order should have been entered, defendant waived that issue by failing to object. *Bennett v. State*, — So. 3d —, 2019 Miss. App. LEXIS 380

County court erred in holding, in an unlawful entry and detainer suit, a son was entitled to possess a home a father provided until a certain date based on the father's chancery court support obligation because a suit to enforce the father's support obligation had to be brought in the chancery court, which had continuing jurisdiction. *Turnage v. Brooks*, — So. 3d —, 2020 Miss. App. LEXIS 403 (Miss. Ct. App. July 28, 2020).

